

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 340

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

ROD ADAIR

AN ACT

RELATING TO CRIMES; PROVIDING FOR PUNISHMENT OF OFFENDERS
CONVICTED OF CERTAIN CHILD SEXUAL ABUSE OFFENSES; MAKING AN
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 31, Article 18 NMSA
1978 is enacted to read:

" NEW MATERIAL SENTENCING OF PERSONS CONVICTED OF
CERTAIN CHILD SEXUAL ABUSE OFFENSES--TREATMENT WITH
MEDROXYPROGESTERONE ACETATE OR ITS EQUIVALENT. --

A. A person convicted of criminal sexual
penetration in the first degree when the victim is a child
less than thirteen years old shall, if paroled, undergo
medroxyprogesterone acetate treatment or its chemical
equivalent, in addition to any other punishment prescribed for

Underscored material = new
[bracketed material] = del ete

1 that offense.

2 B. A person required to undergo treatment pursuant
3 to Subsection A of this section:

4 (1) shall be exempt from that treatment if he
5 has undergone or does undergo a permanent surgical alternative
6 to hormonal chemical treatment for sex offenders; and

7 (2) shall begin medroxyprogesterone acetate
8 treatment one week prior to his release on parole from the
9 physical custody of the corrections department or another
10 institution and shall remain on the treatment program until
11 released from parole unless before that date the parole board
12 demonstrates to the satisfaction of the court sentencing the
13 person pursuant to this section that the treatment is no
14 longer necessary and the court enters an order to that effect.

15 C. The federal centers for disease control and
16 prevention shall administer and implement the protocols
17 required by this section. These protocols shall include a
18 requirement that the person subject to treatment pursuant to
19 this section shall be informed in writing about the effect of
20 hormonal chemical treatment and any side effects that may
21 result from it. The person shall provide a receipt in writing
22 indicating that this information has been communicated to the
23 person.

24 D. Nothing in the implementation of the protocols
25 developed pursuant to Subsection C of this section shall

Underscored material = new
[bracketed material] = delete

1 require a medical doctor employed by the corrections
2 department or the parole board to participate against his will
3 in the program authorized by this section."

4 Section 2. Section 31-21-10 NMSA 1978 (being Laws 1980,
5 Chapter 28, Section 1, as amended) is amended to read:

6 "31-21-10. PAROLE AUTHORITY AND PROCEDURE. --

7 A. A person in the custody of the corrections
8 department or another institution after being sentenced as a
9 result of a conviction of committing criminal sexual
10 penetration in the first degree when the victim is a child
11 less than thirteen years old may be paroled pursuant to the
12 applicable provisions of law, but the term of parole shall be
13 for the life of the person paroled.

14 ~~[A.]~~ B. Except as provided in Subsection A of this
15 section, an inmate of an institution who was sentenced to life
16 imprisonment as the result of the commission of a capital
17 felony, who was convicted of three violent felonies and
18 sentenced pursuant to Sections 31-18-23 and 31-18-24 NMSA 1978
19 or who was convicted of two violent sexual offenses and
20 sentenced pursuant to Subsection A of Section 31-18-25 NMSA
21 1978 and Section 31-18-26 NMSA 1978 becomes eligible for a
22 parole hearing after he has served thirty years of his
23 sentence. Before ordering the parole of an inmate sentenced
24 to life imprisonment, the board shall:

25 (1) interview the inmate at the institution

Underscored material = new
[bracketed material] = delete

1 where he is committed;

2 (2) consider all pertinent information
3 concerning the inmate, including:

4 (a) the circumstances of the offense;

5 (b) mitigating and aggravating
6 circumstances;

7 (c) whether a deadly weapon was used in
8 the commission of the offense;

9 (d) whether the inmate is a habitual
10 offender;

11 (e) the reports filed under Section
12 31-21-9 NMSA 1978; and

13 (f) the reports of such physical and
14 mental examinations as have been made while in prison;

15 (3) make a finding that a parole is in the
16 best interest of society and the inmate; and

17 (4) make a finding that the inmate is able
18 and willing to fulfill the obligations of a law-abiding
19 citizen.

20 If parole is denied, the inmate sentenced to life
21 imprisonment shall again become entitled to a parole hearing
22 at two-year intervals. The board may, on its own motion,
23 reopen any case in which a hearing has already been granted
24 and parole denied.

25 [~~B.~~] C. Except as provided in Subsection A of this

. 121487. 1

Underscored material = new
[bracketed material] = delete

1 section, unless the board finds that it is in the best
2 interest of society and the parolee to reduce the period of
3 parole, a person who was convicted of a capital felony shall
4 be required to undergo a minimum period of parole of five
5 years. During the period of parole, the person shall be under
6 the guidance and supervision of the board.

7 [~~C.~~] D. Except as provided in Subsection A of
8 this section, an inmate who was convicted of a first, second
9 or third degree felony and who has served the sentence of
10 imprisonment imposed by the court in a corrections facility
11 designated by the corrections department shall be required to
12 undergo a two-year period of parole. An inmate who was
13 convicted of a fourth degree felony and who has served the
14 sentence of imprisonment imposed by the court in a corrections
15 facility designated by the corrections department shall be
16 required to undergo a one-year period of parole. During the
17 period of parole, the person shall be under the guidance and
18 supervision of the board.

19 [~~D.~~] E. Every person while on parole shall remain
20 in the legal custody of the institution from which he was
21 released, but shall be subject to the orders of the board.
22 The board shall furnish to each inmate as a prerequisite to
23 his release under its supervision a written statement of the
24 conditions of parole that shall be accepted and agreed to by
25 the inmate as evidenced by his signature affixed to a

Underscored material = new
[bracketed material] = delete

1 duplicate copy to be retained in the files of the board. The
2 board shall also require as a prerequisite to release the
3 submission and approval of a parole plan. If an inmate
4 refuses to affix his signature to the written statement of the
5 conditions of his parole or does not have an approved parole
6 plan, he shall not be released and shall remain in the custody
7 of the corrections facility in which he has served his
8 sentence, excepting parole, until such time as the period of
9 parole he was required to serve, less meritorious deductions,
10 if any, expires, at which time he shall be released from that
11 facility without parole, or until such time that he evidences
12 his acceptance and agreement to the conditions of parole as
13 required or receives approval for his parole plan or both.
14 Time served from the date that an inmate refuses to accept and
15 agree to the conditions of parole or fails to receive approval
16 for his parole plan shall reduce the period, if any, to be
17 served under parole at a later date. If the district court
18 has ordered that the inmate make restitution to a victim as
19 provided in Section 31-17-1 NMSA 1978, the board shall include
20 restitution as a condition of parole. The board shall also
21 personally apprise the inmate of the conditions of parole and
22 his duties relating thereto.

23 ~~[E.]~~ F. Except as provided in Subsection A of
24 this section, when a person on parole has performed the
25 obligations of his release for the period of parole provided

. 121487. 1

Underscored material = new
[bracketed material] = delete

1 in this section, the board shall make a final order of
2 discharge and issue him a certificate of discharge.

3 ~~[F.]~~ G. Pursuant to the provisions of Section
4 31-18-15 NMSA 1978, the board shall require the inmate as a
5 condition of parole:

6 (1) to pay the actual costs of his parole
7 services to the adult probation and parole division of the
8 corrections department for deposit to the corrections
9 department intensive supervision fund not exceeding one
10 thousand twenty dollars (\$1,020) annually to be paid in
11 monthly installments of not less than fifteen dollars (\$15.00)
12 and not more than eighty-five dollars (\$85.00), subject to
13 modification by the adult probation and parole division on the
14 basis of changed financial circumstances; and

15 (2) to reimburse a law enforcement agency or
16 local crime stopper program for the amount of any reward paid
17 by the agency or program for information leading to his
18 arrest, prosecution or conviction.

19 ~~[G.]~~ H. The provisions of this section shall apply
20 to all inmates except geriatric, permanently incapacitated and
21 terminally ill inmates eligible for the medical and geriatric
22 parole program as provided by the Parole Board Act."

23 Section 3. APPROPRIATION. -- Two hundred thousand dollars
24 (\$200,000) is appropriated from the general fund to the
25 corrections department for expenditure in fiscal year 1999 to

Underscored material = new
[bracketed material] = delete

1 implement a program of hormonal chemical treatment for sex
2 offenders released on parole on condition of participating in
3 that program. Any unexpended or unencumbered balance
4 remaining at the end of fiscal year 1999 shall revert to the
5 general fund.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
3
4
5

6 February 5, 1998
7

8 Mr. President:
9

10 Your COMMITTEES' COMMITTEE, to whom has been referred
11

12 SENATE BILL 340
13

14 has had it under consideration and finds same to be GERMANE,
15 pursuant to Senate Executive Message No. 42, and thence referred to
16 the JUDICIARY COMMITTEE.
17

18
19 Respectfully submitted,
20
21
22
23
24

25 _____
Manny M. Aragon, Chairman

Underscored material = new
~~[bracketed material] = delete~~

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

S0340CC1